

## **REMARKS**

### **I. Introduction**

Claims 10, 11, 13 to 15, 17 to 19, 21 to 23, and 25 to 29 are pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Rejection of Claims 10, 11, 13 to 15, 17 to 19, 21 to 23, and 25 to 29 Under 35 U.S.C. § 102(b)**

Claims 10, 11, 13 to 15, 17 to 19, 21 to 23, and 25 to 29 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,971,806 ("Evans et al."). It is respectfully submitted that Evans et al. does not anticipate these claims for at least the following reasons.

As an initial matter, Applicants have previously requested elaboration with regard to the **conclusory** assertions contained in the Final Office Action dated April 29, 2008. However, the present rejection appears substantially unchanged, again merely setting forth **conclusory** assertions that Evans et al. discloses features of the claims without any substantive explanation and/or argument in support thereof. Applicants again respectfully request elaboration with regard to these conclusory assertions.

As further regards the present rejection, **Applicants respectfully maintain all of the positions set forth in the "Reply Under 37 C.F.R. § 1.116" submitted with the R.C.E. filed on August 11, 2008.** Although Applicants have pointed out specific differences between the present claims and the device of Evans et al., the present rejection does not appear to address these arguments, aside from repeating conclusory assertions of what is disclosed and an assertion of similarity.

In the "Response to Arguments" section at page 4 of the Office Action, the Examiner states:

3. Applicant's arguments filed on January 14, 2008 [sic] have been fully considered but they are not persuasive. The Applicant argues again that "Evans et al. do not disclose, or even suggest, a clamping element that is configured to fix the at least a part of the second contact element to the contact area." The Examiner respectfully disagrees. Functionally **similar** connection

mechanism clearly shown [sic] in Evans's fig. 1, and disclosed in column 4, lines 38 – 50.

Office Action, page 4 (emphasis added). In this regard, the Examiner continues to reflect an apparent misapprehension of the standard for establishing a prima facie case of anticipation. As previously set forth in the Reply Under 37 C.F.R. § 1.116, similarity alone is insufficient to establish a prima facie case of anticipation; rather, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). That is, “unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claims, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.” Net MoneyIN, Inc. v. Verisign, Inc., 2008 WL 4614511 (Fed. Cir. 2008). As such, it is respectfully submitted that the alleged similarity (which Applicant again respectfully traverses for at least the same reasons set forth in the Reply Under 37 C.F.R. § 1.116) -- and failure to even allege identity between the claims and the disclosure of Evans et al. -- plainly fails to provide a proper basis for a prima facie case of anticipation for which the Examiner bears the burden of proof.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

**III. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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